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**U.S. District Court
Northern District of Alabama (Southern)
CIVIL DOCKET FOR CASE #: 2:08-cv-02281-HGD**

Balch & Bingham, LLP v. U.S. Commodity Futures Trading
Commission

Assigned to: Magistrate-Judge Harwell G Davis, III
Cause: 05:552 Freedom of Information Act

Date Filed: 12/09/2008
Date Terminated: 06/22/2009
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Balch & Bingham, LLP

represented by **A Kelly Brennan**
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V.

Defendant

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Commission**

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V.

Intervenor Defendant

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Date Filed	#	Docket Text
12/09/2008	<u>1</u>	COMPLAINT against U.S. Commodity Futures Trading Commission (Filing fee \$ 350.00 w/ receipt #200252420) filed by Balch & Bingham, LLP.(SPT,) (Entered: 12/10/2008)
12/09/2008	<u>2</u>	Summons Issued as to U.S. Commodity Futures Trading Commission, U.S. Attorney and U.S. Attorney General by Clerk and Delivered to Plaintiff for service. (SPT,) (Entered: 12/10/2008)
01/09/2009	<u>3</u>	MOTION for Extension of Time <i>to Answer or Otherwise Respond to Complaint</i> by U.S. Commodity Futures Trading Commission. (Ragland, Edward) (Entered: 01/09/2009)
01/12/2009		ORDER granting <u>3</u> Motion for Extension of Time; defendant's answer or responsive pleading to be filed by 2/10/09. Signed by Magistrate-Judge Harwell G Davis, III on 1/12/09. (LBG,) (Entered: 01/12/2009)
02/06/2009	<u>4</u>	MOTION to Intervene by El Paso Marketing, L.P.. (Attachments: # <u>1</u> Exhibit 1 - Complaint in Intervention, # <u>2</u> Exhibit 2 - Declaration of Stuart C. Plunkett)(Jackson, Stephen) (Entered: 02/06/2009)
02/06/2009	<u>5</u>	Corporate Disclosure Statement by El Paso Marketing, L.P.. (Jackson, Stephen) (Entered: 02/06/2009)
02/06/2009	<u>6</u>	MOTION for Leave to Appear Pro Hac Vice (<i>Stuart C. Plunkett</i>) by El Paso Marketing, L.P.. (Jackson, Stephen) (Entered: 02/06/2009)
02/06/2009	<u>7</u>	MOTION for Leave to Appear Pro Hac Vice (<i>Stephen P. Freccero</i>) by El Paso Marketing, L.P.. (Jackson, Stephen) (Entered: 02/06/2009)

02/06/2009	8	MOTION to Intervene by Dynegy Marketing and Trade. (Attachments: # 1 Exhibit 1 - Complaint in Intervention, # 2 Exhibit 2 - Declaration of Michael J. Kass in Support of Motion to Intervene)(Jackson, Stephen) (Entered: 02/06/2009)
02/06/2009	9	MOTION for Leave to Appear Pro Hac Vice (<i>Michael J. Kass</i>) by Dynegy Marketing and Trade. (Jackson, Stephen) (Entered: 02/06/2009)
02/06/2009	10	Corporate Disclosure Statement by Dynegy Marketing and Trade. (Jackson, Stephen) (Entered: 02/06/2009)
02/09/2009		PHV Fee paid for attorneys Stephen P. Freccero, Michael J. Kass, and Stuart C. Plunkett: \$ 150.00, receipt numbers 200 254033; 254034 (SPT,) (Entered: 02/10/2009)
02/10/2009	11	ORDER that the parties shall file any response to the motions to intervene within 14 days from the date of entry of this order; the proposed intervenors shall file any reply within 7 days thereafter. Signed by Magistrate-Judge Harwell G Davis, III on 02/10/09. (SPT,) (Entered: 02/10/2009)
02/11/2009	12	MOTION to Dismiss by U.S. Commodity Futures Trading Commission. (Ragland, Edward) (Entered: 02/11/2009)
02/11/2009	13	Brief re 12 MOTION to Dismiss. (Ragland, Edward) (Entered: 02/11/2009)
02/11/2009	14	Evidentiary Material re: 12 MOTION to Dismiss. (Attachments: # 1 Exhibit Declaration of Stacy Easter (with attached Exhibit A Emailed FOIA Requests AND attached Exhibit B Agency Response dtd 06 Nov 2008, # 2 Exhibit Dynegy Written Justification of FOIA Confidential Treatment Request, # 3 Exhibit El Paso Written Justification of FOIA Confidential Treatment Request, # 4 Exhibit CFTC Final Response, dtd 10 Dec 2008, # 5 Exhibit Plaintiff's January 8 2009 administrative appeal)(Ragland, Edward) (Entered: 02/11/2009)
02/11/2009		ORDER granting 6 Motion for Leave to Appear Pro Hac Vice of Stuart C. Plunkett; granting 7 Motion for Leave to Appear Pro Hac Vice of Stephen P. Freccero; granting 9 Motion for Leave to Appear Pro Hac Vice of, Michael J. Kass. Signed by Magistrate-Judge Harwell G Davis, III on 2/11/09. (LBG,) (Entered: 02/11/2009)
02/11/2009	15	ORDER that the Defendants motion to dismiss will be construed by the court to be a motion for summary judgment as more fully set out in order. Signed by Magistrate-Judge Harwell G Davis, III on 02/11/09. (SPT,) (Entered: 02/11/2009)
02/23/2009	16	Opposition to re 8 , 4 filed by Balch & Bingham, LLP. (Harrell, Daniel) (Entered: 02/23/2009)

03/02/2009	1 7	REPLY to re 16 filed by El Paso Marketing, L.P., Dynegy Marketing and Trade. (Jackson, Stephen) (Entered: 03/02/2009)
03/05/2009	1 8	RESPONSE in Opposition re 12 MOTION to Dismiss filed by Balch & Bingham, LLP. (Harrell, Daniel) (Entered: 03/05/2009)
03/05/2009	1 9	Evidentiary Material re: 18 Response in Opposition to Motion <i>to Dismiss</i> . (Attachments: # 1 Exhibit Affidavit of A. Kelly Brennan)(Harrell, Daniel) (Entered: 03/05/2009)
03/10/2009	2 0	MOTION for Leave to File <i>Sur-Reply to Joint Reply to Opposition to Motions for Intervention</i> by Balch & Bingham, LLP. (Attachments: # 1 Exhibit A - Proposed Sur-Reply Brief)(Harrell, Daniel) (Entered: 03/10/2009)
03/11/2009		ORDER granting 20 Motion for Leave to File. Signed by Magistrate-Judge Harwell G Davis, III on 3/11/09. (LBG,) (Entered: 03/11/2009)
03/11/2009	2 1	REPLY to re 17 (<i>Sur-Reply</i>) to Joint Reply to Opposition to Motions to Intervene filed by Balch & Bingham, LLP. (Harrell, Daniel) (Entered: 03/11/2009)
03/11/2009	2 2	ORDER that Michael J. Kass register with the Northern District of Alabama for access to the CM/ECF system; failure to do so within 10 days of the entry of this order could result in his denial of further participation in this case. Signed by Magistrate-Judge Harwell G Davis, III on 03/11/09. (SPT,) (Entered: 03/11/2009)
03/16/2009	2 3	REPLY Brief filed by Defendant U.S. Commodity Futures Trading Commission re: 18 Response in Opposition to Motion filed by U.S. Commodity Futures Trading Commission. (Ragland, Edward) (Entered: 03/16/2009)
04/06/2009	2 4	ORDER that the parties are notified that the motion for summary judgment filed by the defendant U.S. Commodity Futures Trading Commission has been taken under submission by the court; the parties are ordered to notify the Clerk of Court in writing within 15 days of the entry of this order if they wish for the undersigned magistrate judge to exercise jurisdiction as more fully set out in order. Signed by Magistrate-Judge Harwell G Davis, III on 04/03/09. (Attachments: # 1 Magistrate Consent form) (SPT,) (Entered: 04/06/2009)
04/16/2009	2 5	AMENDED COMPLAINT against U.S. Commodity Futures Trading Commission, filed by Balch & Bingham, LLP. (Attachments: # 1 Exhibit 1 - November 6, 2008 "Partial Response" from the CFTC, # 2 Exhibit 2 - December 10, 2008 "Final Response" from the CFTC, # 3 Exhibit 3 - Copy of Balch's Administrative Appeal, # 4 Exhibit 4 - February 20, 2009 "Response" from the CFTC)(Harrell, Daniel) (Entered: 04/16/2009)
04/30/2009	2	ANSWER to Amended Complaint by U.S. Commodity Futures Trading Commission.

	6	(Ragland, Edward) (Entered: 04/30/2009)
06/16/2009	2 7	ORDER TO SHOW CAUSE; the defendants are ordered to show cause within 7 days of entry of this order, why its motion for summary judgment has not been rendered moot by plaintiffs filing of an amended complaint; Show Cause Response due by 6/23/2009. Signed by Magistrate-Judge Harwell G Davis, III on 06/16/09. (SPT,) (Entered: 06/16/2009)
06/18/2009	2 8	STIPULATION of Dismissal by Balch & Bingham, LLP. (Brennan, A) (Entered: 06/18/2009)
06/22/2009	2 9	ORDER DISMISSING CASE with prejudice, each party to bear its own costs as more fully set out in order. Signed by Judge Inge P Johnson on 06/22/09. (SPT,) (Entered: 06/22/2009)

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